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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/111,731	07/08/1998	YOSHINOBU SHIRAIWA	35.C12836	6151

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EXAMINER

BRIER, JEFFERY A

ART UNIT PAPER NUMBER

2672

DATE MAILED: 02/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/111,731

Applicant(s)

SHIRAIWA ET AL.

Examiner

Jeffery A. Brier

Art Unit

2672

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-9 and 19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-9 and 19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/17/2005 has been entered.

### ***Response to Amendment***

2. The amendment filed on 10/17/2005 has been entered. The amendment to the specification overcomes the objection to the drawings set forth in the previous final rejection mailed on 6/17/2005. Drawing sheets containing figures 8, 24, and 25 filed on 7/7/2003 are acceptable and drawing sheets containing figures 1-7, 9-23, 26, and 27 filed on 07/08/1998 are acceptable.

### ***Response to Arguments***

3. Applicants arguments filed on 10/17/2005 are persuasive in view of the amendments to the claims to overcome the 35 USC 112 first paragraph rejection, however, a new issue has been found after further review of the claims and which is addressed below. Issues in the specification and title are also addressed below.

***Specification***

4. The abstract of the disclosure is objected to because the first sentence appears to be superfluous and the second paragraph needs to better convey the invention by expressing lighting characteristic matrix  $CR_{hr}$  and  $CR_{hl}$  and color temperature conversion matrix CT as well as the source of the lighting characteristic matrix  $CR_{hr}$  and  $CR_{hl}$ . Correction is required. See MPEP § 608.01(b).

5. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The title needs to express the invention of this application which may be found in claim 1. The term "therefore" in the title does not express the invention. The terms image processing apparatus, method, recording medium in the title does not express the invention.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 1, 3-9 and 19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed,

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had possession of the claimed invention. The claimed limitation "wherein the conversion condition for the light source having high color rendering properties is obtained from measurement data of plural patches under the light source having high color rendering properties and measurement data of the plural patches under a standard light source, and the conversion condition for the light source having low color rendering properties is obtained from measurement data of plural patches under the light source having low color rendering properties and measurement data of the plural patches under the standard light source" is not fully supported by the originally filed application" which was added to independent claims 1, 8, and 9 in the 12/06/2004 amendment is not totally conveyed by applicants specification. Applicant needs to follow the language used in the specification but the use of the words "can be" would be held indefinite. Applicants specification at page 16 lines 15-21 describes:

[0069] The lighting characteristic matrixes  $CR_{hr}$ ,  $CR_{hl}$  can be obtained by determining the three stimulation values under the above-mentioned illuminating lights and those under the standard light source, for example with a test chart containing 77 color patches as shown in FIG. 7 and executing optimization for example by the attenuated minimum square method.

at page 17 line 15 to page 18 line 2 describes:

[0074] The setting mode 142 sets the value of the lighting characteristic coefficient according to the instruction of the user. According to the position of a black triangle mark on a bar, selected by the manual instruction of the user, the lighting characteristic coefficient instructing unit 64 calculates and sets the value of the lighting characteristic coefficient. The black triangle mark positioned at the left-hand end of the bar sets 0 as  $I_{H_{ks}}$  and that at the right-hand end sets 1. Also for setting the lighting characteristic coefficient while confirming the effect of the actually set lighting characteristic coefficient, there are provided a mode 143 for displaying the color patches in a user interface 145 and a mode 144 for displaying the original image.

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and at page 30 line 24 to page 31 line 17 describes:


[0128] The ambient lighting characteristic correcting matrix CR is desirably determined for each ambient illuminating light corresponding to the actual ambient situation. For example, this matrix can be obtained by determining the three stimulation values under the above-mentioned illuminating lights and those under the standard light source, for example with a test chart containing 77 color patches as shown in FIG. 7 and executing optimization for example by the attenuated minimum square method. The above-described method can be easily executed in case the number of the required illuminating lights is limited to several kinds. In practice, however, the condition of lighting changes in various manner according to the kind of the illuminating light source, the time-dependent change thereof, and the change in the state of the incoming external light such as the solar light, and it is difficult, in the above-described method, to determine the ambient lighting characteristic correcting matrix corresponding to the ambient illuminating light varying in various manners.

The specification does not manifest the claimed "measurement data", it describes "determining the values" which is different than measuring values to produce the claimed "measurement data". The claimed "plural patches" is a range of patches different than described "77 color patches" which "77 color patches" does not manifest a broad range of patches but rather a more narrow range of patches and a range that is not close to 1 patch such as 2 patches or a very large number of patches such as 1000 or infinity . The claimed "is obtained" does not manifest the described determining values with a test chart of 77 color patches and executing optimization by attenuated minimum square method. An amendment to the independent claims that manifests that which is disclosed by the originally filed specification at the above cited locations will place the claims in condition for allowance.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffery A Brier whose telephone number is (571) 272-7656. The examiner can normally be reached on M-F from 7:00 to 3:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Razavi, can be reached at (571) 272-7664. The fax phone Number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jeffery A Brier  
Primary Examiner  
Art Unit 2672